THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9709 of_2004

Dated:20.09.2006

Between
A.Bangaraiah

…..Petitioner

and

1.The Joint Collector, Nellore and another.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9709 of 2004

ORDER:

It appears that the petitioner is an agriculturist and not a trader. He obtained Ac.11.65 cents of agricultural land on lease in Chutti village, Balayapalli Mandal, Nellroe District from one Kandanuru Saibaba under lease deed dated 25.2.1995 for a period of four years. He has been paying maktha at the rate of Rs.1,000/- per acre. In the said land he raised paddy crop. While so, the 2nd respondent inspected and seized the stocks consisting of 112 bags of paddy on the ground that the petitioner had violated Clause 3 of A.P. Prevention of Hoarding of Food Grains Order 1973 by holding 96 quintals of rice etc. After conducting a detailed enquiry, the Joint Collector under

Section 6 of the Essential Commodities Act, confiscated the seized stocks. Aggrieved by the same, the petitioner carried the matter in appeal being C.M.A.No.35 of 2001 before the IV Additional District & Sessions Judge, Nellore, who confirmed the order passed by the Joint Collector. Aggrieved by the same, the present writ petiton is filed.

Learned counsel for the petitioner strenuously contended that in the explanation submitted by the petitioner to the Joint Collector, it is stated that he has taken Ac.11.64 cents agricultural land on lease from one Kandanuru Sai Baba and raised paddy crop, hulled the said paddy and filed a copy of the agreement before the Joint Collector, which was not taken into consideration by him stating that the arguments put forth by the petitioner are only an after thought to cover his illegal business of rice exceeding a quantity of 20 quintals. It is his further contention that the petitioner is only an agriculturist, therefore, the question of hoarding does not arise. It is his own rice raised in the field, which was stored and hulled thereafter and this

was not taken into consideration by the Joint Collector. Neither the lease deed was accepted nor the person, who executed the lease was permitted to be examined before the authorities.

Per contra, the learned Government Pleader while supporting the order passed by the Joint Collector as confirmed by the learned IV Additional District & Sessions Judge, Nellore, submits that it is only a second thought as rightly found by the Joint Collector and the impugned order does not suffer from any legal infirmities calling for interference of this Court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by learned counsel on either side and perused the material made available on record.

Para 11 of the order passed by the learned IV Additional District & Sessions Judge, Nellore, refers to the lease agreement of the agricultural lands to an extent of Ac.11.64 cents in favour of the petitioner, but the same was not taken into

consideration by the Joint Collector since the Joint Collector felt that it is an after thought. At least, the appellate authority ought to have given an opportunity to the petitioner for examining the lessor in this regard and marking the said document. But , no such opportunity seems to have been given by the respondents.

In view of the same, the impugned order passed by the Joint Collector as confirmed by the IV Additional District & Sessions Judge, Nellore is liable to be set aside.

In the result, the writ petiton is allowed and the impugned order passed by the Joint Collector as confirmed by the IV Additional District & Sessions Judge, Nellore is set aside and the matter is remitted to the Joint Collector for consideration afresh, after taking the lease deed on record and examining the lessor in this regard and pass appropriate orders afresh, as per law.

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20-09-2006

Note:

Issue CC by one week.
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